

REMARKS

The Examiner issued a restriction Requirement under 35 U.S.C. §121. In the event that the Office does not accept the following traversal of the restriction requirement, Applicants elect to prosecute the Group II invention (Claims 4-14) in this application subject to the traverse.

Subject to rejection of the traversal set forth herein and maintenance of the restriction requirement, claims 1-3 and 18 are withdrawn herein. The Examiner is advised that upon information, it appears that there is no need to amend the inventorship of the pending claims under 37 C.F.R. §1.48(b).

TRAVERSAL

The present restriction is between three allegedly distinct inventions; an immunoliposome (Group 1), immunoliposome-nucleic acid amplification assay (Group 2), and method for forming an immunoliposome (Group 3).

Applicant respectfully traverses the restriction requirement since the rules of practice require that the inventions restricted must be found to be both independent **and** distinct in order for a restriction requirement to be proper. The outstanding Official Action only indicates that the inventions recited in the claims are distinct. Applicants submit that the complete examination of the application would be most expeditiously handled by treating all pending claims as a single entity. As Section 803 of the M.P.E.P. requires,

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

It is respectfully urged that the restriction requirement is improper because the Examiner has not shown that a search and examination of the entire application would, indeed, cause a *serious* burden, as required by Section 803 of the M.P.E.P. In fact, a serious burden would arise only if the application were restricted to one of the identified inventions. Filing an additional applications to the non-elected inventions, would unnecessarily burden (1) the Patent and Trademark Office, since it must assume the additional and unnecessary labor involved in individually examining multiple applications; (2) the public, since it will have to examine multiple patents (assuming the subject matter is found patentable) to fully ascertain the claimed subject matter; and (3) the Applicant, since the Applicant must bear the substantial financial burden and delays associated with prosecuting and maintaining multiple applications.

In view of the foregoing, Applicant requests reconsideration of the restriction requirement and submits that the application is now in condition for substantive examination of all claims on the merits. Therefore, Applicants request favorable consideration of the application.

If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned.

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Respectfully submitted,
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